

## REMARKS/ARGUMENTS

The foregoing amendment and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

### 35 U.S.C. § 103(a) Rejections

Examiner rejected claims 1, 6, 8-11, 16, 18-21, and 27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,983,382 (hereinafter "Pauls") in view of U.S. Patent 6,629,285 (hereinafter "Gerendai et al.")

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (Manual of Patent Examining Procedure (MPEP) ¶ 2143.03).

Applicant's independent claims include limitations that are not disclosed nor suggested in Pauls nor Gerendai et al. Therefore applicant's independent claims are patentable over Pauls in view of Gerendai et al.

In particular, applicant's independent claims include the limitation, or a limitation similar thereto, *of in response to receiving an acknowledgement, ceasing to send additional parity packets, and in response to not receiving the acknowledgment, continuing to transmit the parity packets.*

In the most recent office action, the examiner stated that Gerendai et al. discloses in response to receiving the acknowledgement, ceasing to send additional parity packets. Applicant respectfully disagrees.

First, Gerendai et al. teaches away from applicant's claimed limitation of *in response to not receiving the acknowledgment, continuing to transmit the parity packets*. Rather, Gerendai et al. discloses resending packets **in response to the receiving message identifying missing packets**.

The receiver transmits a message from the receiver to the sender notifying the sender that an identified one of the plurality of the data packets is missing. The sender retransmits to the receiver the identified one of the plurality of data packets . . . (emphasis added.) (Gerendai et al., col. 2, lines 32-36.)

Second, Gerendai et al. teaches away from applicant's claimed limitation of *in response to receiving an acknowledgement, ceasing to send additional parity packets*. Instead, Gerendai et al. discloses not resending packets in response to not receiving a message from the receiver not identifying missing packets: "the receiver implicitly acknowledges received data packets by not listing them . . . ." (Gerendai et al., col. 2, lines 22-24.)

Therefore, Gerendai et al. fails to teach the claimed limitation of response to receiving an acknowledgement, ceasing to send additional parity packets, and in response to not receiving the acknowledgment, continuing to transmit the

parity packets. As a result, applicant's independent claims are patentable over Pauls in view of Gerendai et al.

Furthermore, the remaining claims depend from one of the independent claims as discussed above. As a result, the dependent claims include the distinguishing claim limitation discussed above and are patentable over Pauls in view of Gerendai et al.

CONCLUSION

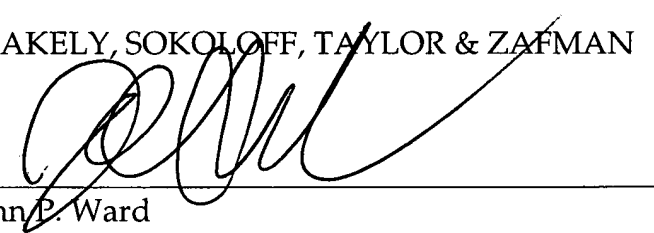
Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call John Ward at (408) 720-8300, x237.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

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